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In re Application of KAO et al	:	
U.S. Application No.: 10/501,798	:	
PCT Application No.: PCT/US02/18088	:	
Int. Filing Date: 07 June 2002	:	DECISION
Priority Date Claimed: 08 June 2001	:	
Attorney Docket No.: END041183PCTUS	:	
For: CONTROLLED RELEASE DOSAGE	:	
FORMS USING ACRYLIC POLYMER,	:	
AND PROCESS FOR MAKING THE SAME	:	

This is in response to applicant's petition under 37 CFR 1.137(b) filed 19 July 2004.

**BACKGROUND**

On 07 June 2002, applicant filed international application PCT/US02/18088, which claimed priority of an earlier United States application filed 08 June 2001. The thirty-month period for paying the basic national fee in the United States expired on 08 December 2003.

International application PCT/US02/18088 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 July 2004, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the filing of a continuation application under 35 U.S.C. 111 is a proper reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "Applicant respectfully submits that the delay was unintentional as recited in 37 C.F.R. §1.137(b)(3)." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/US02/18088 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 10/501,798.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111.



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